

Exhibit 3

Plaintiffs' Motion for Class Certification
and Supporting Brief

Deposition of Eric Dublinski

Slack, et al. v. Swift Transportation Co. of Arizona, LLC

February 14, 2013



THE NORTHWEST'S LEADING
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LEGAL VIDEOGRAPHY FIRM

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA
No. 3:11-cv-05843 BHS

TROY SLACK, JACOB GRISMER, RICHARD)
ERICKSON, SCOTT PRAYE, GARY H.)
ROBERTS, ROBERT P. ULRICH, HENRY)
LEDESMA, TIMOTHY HELMICK, DENNIS)
STUBER, ERIC DUBLINSKI, SEAN P.)
FORNEY, individually, and as Putative)
Class Representatives,)
Plaintiffs,)
vs.)
SWIFT TRANSPORTATION CO. OF ARIZONA,)
LLC,)
Defendant.)

VIDEOTAPE DEPOSITION UPON ORAL EXAMINATION
OF
ERIC DUBLINSKI

Taken at
1420 Fifth Avenue
Suite 4100
Seattle, Washington 98101

DATE TAKEN: Thursday, February 14, 2013
REPORTED BY: Sherilynn McKay, RMR, CRR, CCR 3236

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1 Seattle, Washington; Thursday, February 14, 2013
2 9:35 a.m.
3
4 THE VIDEOGRAPHER: This is the deposition of
5 Eric Dublinski in the matter of Slack, et al., versus
6 Swift Transportation Company of Arizona, LLC, Cause
7 No. 3:11-Cv-05843 BHS, in the United States District
8 Court, Western District of Washington at Tacoma. It was
9 noticed by Ellen Bronchetti.
10 The time now is approximately 9:35 a.m. on this
11 14th day of February, 2013. We are convening at 1420
12 Fifth Avenue, Suite No. 4200, in Seattle, Washington.
13 My name is Brook Young, from Buell Realtime
14 Reporting, LLC, located at 1411 Fourth Avenue,
15 Suite No. 820, in Seattle, Washington, 98101.
16 Starting on my left, will counsel and all
17 present please identify themselves for the record.
18 MS. BRONCHETTI: Ellen Bronchetti, attorney for
19 Swift Transportation.
20 MR. CAMP: Robert Camp, attorney for plaintiffs.
21 MR. LANE: Joseph Lane, attorney for plaintiffs.
22 THE VIDEOGRAPHER: The court reporter may now
23 swear in the witness.
24
25

Page 5

1 ERIC DUBLINSKI witness herein, having
 2 been first duly sworn on
 3 oath, was examined and
 4 testified as follow:

5
 6 EXAMINATION
 7 BY MS. BRONCHETTI:
 8 Q. Have you ever had your deposition taken before?
 9 A. No.
 10 Q. Do you understand that today we're going to --
 11 you're testifying under oath.

12 A. Yeah.
 13 Q. Okay. And you know what perjury is?
 14 A. Yes.
 15 Q. You promise to tell the truth today?
 16 A. Yes.
 17 Q. Okay. Before I get into the questions, I want
 18 to ask you today, I just want to go over the ground
 19 rules so we're all on the same page. Today I'm entitled
 20 to your best testimony. I might be asking you about
 21 events that occurred all the way back to 2008, and you
 22 might not know exactly the response, but I'm entitled to
 23 your most complete response. Do you understand that?
 24 A. Yes.
 25 Q. Will you do that for me today?

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1 A. Sure.
 2 Q. I'm going to be asking you a lot of questions.
 3 Sometimes the questions I ask you aren't going to make
 4 sense to you, or they might be too complicated or long.
 5 If that's the case at any point, you need to say can you
 6 repeat your question, I don't understand your question,
 7 and I'll rephrase my question. Okay?

8 A. Okay.
 9 Q. But if you answer my question, it's assumed that
 10 you understood it, and your answer will stand. Okay?

11 A. Okay.
 12 Q. At any time if you need a break, throughout this
 13 proceeding, just tell me, and we'll take a break. This
 14 is not a marathon. The only thing I ask that you do is
 15 answer a question pending before we go off the record.
 16 Fair enough?

17 A. Sure.
 18 Q. You and I, in normal conversation, we interrupt
 19 each other, we use our hands, we nod our heads, and we
 20 know what each other means. That's normal. Today is a
 21 little bit dysfunctional. We have a court reporter
 22 taking down everything both of us say. The importance
 23 of that is two things. One, we have to try to give
 24 verbal answers. While I understand when you're shaking
 25 your head you might be agreeing with something I say,

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1 A. Sure.
 2 Q. It's very important that you don't guess. Okay?
 3 So you've never been to my office in San Francisco.
 4 Right?
 5 A. No.
 6 Q. So if I asked you if there was a desk in there,
 7 while, you know, most attorneys have desks in their
 8 office, you would assume, you can't answer that, that
 9 would be a complete guess. Right?
 10 A. Yeah.
 11 Q. You've met me today. Right?
 12 A. Yeah.
 13 Q. And I didn't tell you how old I was. Right?
 14 A. No.
 15 Q. But you could probably estimate that I'm
 16 somewhere between 19 and 25 -- no, just kidding. You
 17 know I'm not 70 years old. Correct?
 18 A. Yeah.
 19 Q. So somewhere in there you could give me an
 20 estimate.
 21 A. Yeah.
 22 Q. So if you have any personal knowledge,
 23 experience, I'm entitled to your estimate, even though
 24 you don't have an exact answer. Will you try to do that
 25 today?

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1 that is not what she is able to type out.
 2 A. Okay.
 3 Q. So if you can try to verbalize your responses,
 4 that would be helpful.
 5 A. Oh, okay.
 6 Q. The other thing, to make our job easier, her job
 7 easier, and this day get done as quickly as possible, we
 8 have to try to wait for the other person to stop
 9 speaking before the other answers. That's so we can
 10 have a clean record, and so that the testimony is clear.
 11 Do you understand that?
 12 A. Yes.
 13 Q. Okay. After today's proceeding, you'll have an
 14 opportunity to correct any answers to the questions that
 15 you gave me today; however, if we do go to trial in this
 16 matter, and you change your answer, I'm able to comment
 17 on those at trial as to going to your credibility. Do
 18 you understand?
 19 A. Yeah.
 20 Q. That's why it's really important for you to do
 21 your best to tell me everything you know to answer my
 22 questions, to make sure you understand my questions.

23 A. Okay.
 24 Q. Do you have any questions about anything we just
 25 covered?

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1 A. No.
 2 MR. CAMP: Can we go off the record for a
 3 minute?
 4 MS. BRONCHETTI: Of course.
 5 THE VIDEOGRAPHER: Going off the record. The
 6 time now is approximately 9:39 a.m.
 7 (Discussion off the record.)
 8 THE VIDEOGRAPHER: Going back on the record.
 9 The time now is approximately 9:40 a.m.
 10 MR. CAMP: Counsel off record has discussed a
 11 stipulation, and plaintiffs are willing to stipulate
 12 that they are making no claims of breach of contract or
 13 implied contract related to the payment of Rand McNally
 14 miles versus actual miles, or hub miles.
 15 Do you have anything you'd like to add?
 16 MS. BRONCHETTI: No. Thank you.
 17 BY MS. BRONCHETTI:
 18 **Q. Okay. Now, I just went into the long-winded way**
 19 **of telling you that it's really important to tell the**
 20 **truth today and to get your best testimony. So before I**
 21 **can start asking you questions, I have to make sure**
 22 **you're able to tell the truth. So have you had any**
 23 **drugs within the last 24 hours or medication that could**
 24 **impact your ability to testify truthfully today?**
 25 A. No, ma'am.

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1 **Q. Okay. Do you have any concern about being able**
 2 **to tell the truth today?**
 3 A. No.
 4 **Q. Before today, did you prepare for this**
 5 **deposition today in any way?**
 6 A. Yes, I did.
 7 **Q. What did you do to prepare?**
 8 A. I went over the, some of the documents, and just
 9 got a feel for what would be going on a little bit.
 10 **Q. What documents did you go over?**
 11 A. I don't know the names of those. Just the case
 12 documents.
 13 MR. CAMP: And don't reveal anything that we
 14 said to you.
 15 BY MS. BRONCHETTI:
 16 **Q. Does anything come to mind that you can**
 17 **describe, what was on the page that you reviewed in**
 18 **preparation for your deposition today?**
 19 A. Well, just my name was on there, and I didn't
 20 actually read the whole thing very well.
 21 **Q. So was that the complaint, it was on a formal**
 22 **looking piece of --**
 23 A. Yeah.
 24 **Q. Prior to -- when did you review the complaint?**
 25 A. When?

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1 **Q. Yes.**
 2 A. Last night, and I saw it this morning also.
 3 **Q. Was that the first time you ever reviewed the**
 4 **complaint?**
 5 A. No.
 6 **Q. When was the first time you reviewed the**
 7 **complaint?**
 8 A. Back -- back at a meeting, about a year and a
 9 half ago, I think.
 10 **Q. When you reviewed the complaint -- when did you**
 11 **review -- so when you were reviewing the complaint last**
 12 **night and this morning, did anything come to mind to you**
 13 **that you disagreed with that's in the complaint?**
 14 A. No, no.
 15 **Q. Other than reviewing the complaint in**
 16 **preparation for your deposition today, did you review**
 17 **any other documents?**
 18 A. No.
 19 **Q. Other than your attorney, did you --**
 20 **attorneys -- did you speak to anyone about your**
 21 **deposition here today?**
 22 A. Not -- I, my friend knows I was coming up here,
 23 and my family, I told them I was coming up to Seattle
 24 for this, but no discussion about anything in the --
 25 about it.

Page 12

1 **Q. Is your friend that you spoke to, is he one of**
 2 **the other named plaintiffs in this lawsuit?**
 3 A. Yes.
 4 **Q. Who is that?**
 5 A. Jacob Grismer.
 6 **Q. What did you tell Jacob Grismer about your**
 7 **deposition here today?**
 8 A. I told him how to get here, and that's kind
 9 of -- you know, that I'm up here to do it, and he's
 10 going to have to be coming up here too, so I just said,
 11 "Don't drive by it like I did."
 12 **Q. You missed Seattle?**
 13 A. Hmm?
 14 **Q. You missed the city?**
 15 A. Well, I just drove right by -- I didn't see the
 16 Olympic Fairmont sign --
 17 **Q. Got you.**
 18 A. -- so I kept on going.
 19 **Q. You didn't discuss the content of your**
 20 **deposition today?**
 21 A. No.
 22 **Q. You just basically talked about logistics?**
 23 A. (Witness nods head.)
 24 **Q. Okay. Have you told me everyone that you've**
 25 **spoken with about your deposition here today?**

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1 A. Is that including all of time or --
 2 **Q. That's a good question. Well, tell me everyone**
 3 **who you've spoken with about your deposition other than**
 4 **your attorneys. You spoke to --**
 5 A. I've actually spoke to no one about it. I mean,
 6 they know of it, but --
 7 **Q. What is your understanding about what this**
 8 **lawsuit is about?**
 9 A. Well, I'm representing all the Washington-based
 10 drivers that are getting paid by the mile, and I want to
 11 cooperate with my lawyers and do what needs to be done
 12 to point out that our belief in that they're not really
 13 paying us.
 14 **Q. They're not paying you what?**
 15 A. Overtime pay.
 16 **Q. Other than not being paid overtime, are there**
 17 **any other claims that you're aware of that are being**
 18 **made in this lawsuit?**
 19 A. Yeah, I'm aware of the orientation prehirings
 20 thing, that they're calling it prehiring, and then feel
 21 we should be paid for that, since they basically said,
 22 yeah, you got the job, come on up here. And that was
 23 ten years ago. I can't remember how -- and what was the
 24 question again?
 25 **Q. Other than the claim of overtime, are there any**

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1 **other claims that you're aware of? You've mentioned the**
 2 **orientation claim. Are there any other claims that**
 3 **you're aware of that you're making in this lawsuit?**
 4 A. Me personally making or --
 5 **Q. You as a class representative.**
 6 A. The per diem.
 7 **Q. What's that all about, based on your**
 8 **understanding?**
 9 A. I don't understand much about it, because I
 10 never did it.
 11 **Q. Do you know anything about the per diem claim?**
 12 A. Well, I heard that Swift unrightfully withheld
 13 like a penny and a half when they were not supposed to
 14 do that.
 15 **Q. Who told you that?**
 16 MR. CAMP: Objection to the form -- sorry.
 17 Objection. Attorney-client privilege.
 18 BY MS. BRONCHETTI:
 19 **Q. Did someone other than your attorney tell you**
 20 **that?**
 21 A. No.
 22 **Q. Other than the overtime claim, the orientation,**
 23 **prehire issue, the per diem claim, is there any other**
 24 **claim that you're aware of that you're bringing in this**
 25 **lawsuit?**

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1 A. What were the three again? The first,
 2 mileage --
 3 **Q. The mileage, overtime --**
 4 A. No, none other than those three.
 5 **Q. That's everything?**
 6 A. (Witness nods head.)
 7 THE REPORTER: Are you okay with the nod?
 8 MS. BRONCHETTI: Oh, sorry.
 9 BY MS. BRONCHETTI:
 10 **Q. Yes?**
 11 A. Yes.
 12 **Q. That's all you're aware of?**
 13 A. Yes.
 14 **Q. Thank you.**
 15 **You mentioned that you're a class**
 16 **representative.**
 17 A. Yeah.
 18 **Q. What is your understanding of what that means as**
 19 **far as your role in the case?**
 20 A. Well, that I'm going to be participating in any
 21 hearings or courts, and to the best of my ability, just
 22 tell the truth about my job and what we do as drivers,
 23 and just try to be cooperating in any way I can.
 24 **Q. Other than what you just mentioned, are you**
 25 **aware of any other special responsibilities that come**

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1 **along with being a class representative in this lawsuit?**
 2 A. No.
 3 **Q. Have you -- do you know who the other class**
 4 **representatives are?**
 5 A. I know three or four of them.
 6 **Q. Which ones do you know?**
 7 A. Bob --
 8 **Q. Is it Robert Ulrich?**
 9 A. Rob, yeah, Robert. Jacob Grismer. I know those
 10 two pretty well. I'm acquainted, or barely spoke with
 11 Fred Slack. Henry Ledesma, I know him pretty good. And
 12 that's all I'm -- that's all I'm aware of.
 13 **Q. Have you ever met or spoken with Scott Praye?**
 14 A. Not to my knowledge.
 15 **Q. Why do you say not to your knowledge?**
 16 A. I may have met somebody -- I don't remember
 17 names that well.
 18 **Q. What about Sean Forney?**
 19 A. Never heard of him.
 20 **Q. Have you ever met or spoken with Dennis Stuber?**
 21 A. I've heard the name. I cannot place the face
 22 with him. I'm sure I've probably talked with him. Like
 23 I said, I'm not real good remembering names, and I'm
 24 going about my business working, I just want to get
 25 going.

Page 17

1 **Q. Do you recall ever having a conversation with
2 Mr. Stuber about the lawsuit?**

3 A. No, no.

4 **Q. How about have you ever met or spoken to Gary
5 Roberts?**

6 A. Oh, yes, I've met him.

7 **Q. Where did you meet him?**

8 A. Down there at the Swift terminal.

9 **Q. Does he work with you, or he used to work with
10 you at the terminal?**

11 A. He did not work with me, but I just bump into
12 him, and I knew him by name because my friend knows him,
13 and says, yeah, that's Gary Roberts, this is what he
14 looks like, and I may have -- I never talked to him
15 about any of this, but I may have spoke to him as driver
16 to driver, you know.

17 **Q. Have you ever met or spoken with Timothy
18 Helmick?**

19 A. Tim. I've probably spoken with all these guys,
20 but I -- but Tim, he's not a friend, I don't know what
21 he looks like, but if I saw him, and put the name on the
22 face, I'd say, yeah, I've talked to him. But I've never
23 talked to people about this.

24 **Q. And what about Richard Erickson? Have you ever
25 met or spoken with Mr. Erickson?**

Page 18

1 A. Oh, well, yes, I did. That's another one I
2 know. I know him probably well.

3 **Q. Have you spoken with Mr. Erickson about the
4 lawsuit?**

5 A. No. Other than just, well, yeah, there's the
6 deposition, and we're aware that we're both in it, but
7 we don't discuss anything.

8 **Q. What made you decide to file a lawsuit?**

9 A. Well, probably my friend and I, Jacob, talking,
10 and we were kind of complaining about this and that, how
11 the -- and I just -- he'd said, "Well, there's a lawsuit
12 back there." And I thought it was economy that they
13 were kind of trying to pinch their pennies on us, and,
14 well, he told me about this lawsuit. I'm like, well,
15 hmmm. It sounds like they're -- I just decided talking
16 with my friend, basically, that looked like maybe Swift
17 was not paying us overtime when they should.

18 **Q. Now, when you said you were speaking to Jacob
19 Grismer and complaining about this and that, can you be
20 more specific about what your complaints were about that
21 led you to file this lawsuit?**

22 A. Well, when we moved -- when I transferred from
23 Oregon to Washington, they took a -- three cents off of
24 our pay, for one thing. We used to get a safety bonus.
25 They pulled that away. A penny a mile all year.

Page 19

1 And -- well, there's other little things, like
2 stop pay and stuff that they pulled. They started
3 giving us less. And so to me, in my head, it clicked
4 like, well, they're getting ready to pay us overtime,
5 but then they never did. I don't know. That's just
6 kind of how I decided, well, they're pulling stuff, but
7 they're not putting nothing back.

8 And then he said, well, "Yeah, that law passed,"
9 so it just kind of clicked in my head.

10 **Q. What law are you referring to that passed?**

11 A. That Washington-based truck drivers shall be
12 paid overtime by mileage.

13 **Q. And when is it your understanding that that law
14 passed?**

15 A. Approximately a year and a half ago.

16 **Q. Prior to you understanding that a law passed,
17 did you believe you were owed overtime, prior to that
18 new law about year and a half ago?**

19 A. No, I'd never heard.

20 **Q. Did you believe you should be entitled to
21 overtime prior to that Washington law being passed a
22 year and a half ago?**

23 A. No, there -- didn't really come to mind.

24 **Q. Were you finished?**

25 A. Yeah.

Page 20

1 **Q. Okay.**

2 **When did you transfer from Oregon to Washington?**

3 A. Seven years ago.

4 **Q. Why did you transfer from Oregon to Washington?**

5 A. Well, some of the other drivers had gone over
6 there, and they said they were getting more miles. And
7 at the time I was hunting, house hunting, and I found a
8 house in between the two, so I thought, well, I'll go
9 try that one, and if I don't like it I can go back to
10 the other one.

11 **Q. Now, when you were based in Oregon, was that out
12 of the Troutdale?**

13 A. No. Hermiston, Oregon.

14 **Q. Where -- I'm sorry, I'm not great with geography
15 in my Pacific Northwest. Where is that?**

16 A. Let's see. It would be -- 73 -- it's only about
17 an hour down the road from -- it's just across the
18 border, by -- right by the border. So it's only an hour
19 away from the DC, the other DC, and pretty much I live
20 right in the middle, so --

21 **Q. Pardon my ignorance. What is a DC?**

22 A. Oh. That's a distribution center.

23 **Q. Gotcha. Thank you.**

24 **When you were based in Oregon, how did it come
25 to be that that was where you were designated? What was**

Page 21

1 your understanding of how it was determined where you
 2 were based?

3 A. Well, my understanding of it was it was
 4 dispatched out of the California. They didn't really
 5 have a Swift terminal there, in Oregon, but we all
 6 picked up our loads and started from there, and then
 7 we'd get on the phone and talk to them in California,
 8 and they'd do their computer stuff to get us paid,
 9 and -- and at that time I was living in Washington as
 10 well.

11 **Q. What terminal -- so was it the Lathrop terminal**
 12 **that was kind of your dispatch central, or was it the**
 13 **Fontana terminal?**

14 A. No. There was a smaller one that disappeared,
 15 and then I think they brought it back up, and that
 16 was -- I'm trying to think of the name. Gosh, I can't
 17 remember.

18 **Q. Do you remember who your manager was when you**
 19 **were based in Oregon?**

20 A. Brody, something.

21 **Q. Do you know who your dispatcher was when you**
 22 **were -- I know you had a lot of dispatchers.**

23 A. Brody is the only one I remember.

24 **Q. So did you ask somebody, can I transfer to be**
 25 **based out of Washington?**

Page 22

1 A. Well, I didn't ask anybody. They needed
 2 drivers, and they -- I just asked for it because
 3 occasionally they would send me over to the Washington
 4 to do, when they needed extra help, and so now I was
 5 down there, I inquired about it, they said, "Yeah, we
 6 need drivers," so I said, "Well, sign me up."

7 **Q. When you say they asked for drivers, who are you**
 8 **refer to when you say "they"?**

9 A. I probably talked to Dave Weibush.

10 **Q. When you were transferred to Oregon, from Oregon**
 11 **to Washington, was your pay structure changed at all?**

12 A. Yeah.

13 **Q. Tell me how.**

14 A. Three cents per mile less when I went to
 15 Washington.

16 **Q. Is it your understanding that since you**
 17 **transferred from Oregon to Washington, from that point**
 18 **to current date, are you still paid three cents an hour**
 19 **less than Oregon-based drivers?**

20 A. Yes.

21 **Q. How do you know that?**

22 A. Occasionally surge drivers come in that I know,
 23 and I've asked them, and they're like, "I'm getting 39
 24 cents a mile," and that doesn't compare with what I'm
 25 getting, so --

Page 23

1 **Q. Other than your discussions with these Oregon**
 2 **surge drivers, do you have any other reason to believe**
 3 **that you're paid three cents per hour less than Oregon**
 4 **drivers?**

5 A. Well, I'm not talking Oregon drivers. This guy
 6 lives in Washington, the one I talked to, and I think
 7 he's based out of -- he used to be based out of
 8 Lewiston.

9 **Q. Lewiston, Idaho?**

10 A. Yeah. But -- so that's -- that's all I got.

11 **Q. Is it your understanding that all**
 12 **Washington-based drivers are paid three cents less an**
 13 **hour -- or mile, than other drivers, based in other**
 14 **states?**

15 A. Yeah. That's how I see it. I mean, I don't
 16 know. I don't know what the other, like Costco or
 17 whatever, I don't know what they're getting, but I do
 18 know we're getting three cents less than the regular
 19 drivers.

20 **Q. When you transfer -- since the time you**
 21 **transferred from Oregon to Washington, have you ever**
 22 **received an increase in your mileage pay?**

23 A. Well, yes. I had worked for three years, which
 24 does not top me out on my pay scale yet. So after a
 25 year went by, after I transferred, I got the normal

Page 24

1 raise. And then another year went by, I got the
 2 maximum. And then that's the raises I got. I did
 3 get -- what was the question again? Have I ever?

4 **Q. Have you ever seen an increase in your**
 5 **mileage --**

6 A. Yes, about six or eight weeks ago I got a --
 7 went from 35 cents to 36 cents.

8 **Q. Do you know why you went from 35 to 36?**

9 A. We got a letter around Christmas saying to
 10 improve -- to -- it just -- I don't know why. They just
 11 decided to give us an extra penny.

12 **Q. When you say "they decided to give us," is it**
 13 **your understanding that all Washington-based drivers got**
 14 **that increase?**

15 A. At least at Grandview.

16 **Q. When you transferred in 2006, do you recall what**
 17 **your mileage-based pay was at the time?**

18 A. Probably 30 -- I don't know how big those raises
 19 were. I don't recall.

20 **Q. When you say you got the normal raise a couple**
 21 **years after you transferred, what raise did you get?**

22 A. Well, whatever the increments are. They go by
 23 years. You're there one year you get a raise, two
 24 years, on up to five years, and I just got the normal
 25 raises.

Page 25

1 **Q. When you say you got the maximum raise shortly
2 thereafter, what do you mean by that?**

3 A. Well, at five years you get -- that's -- you top
4 out, so I was at Grandview for two years, and then I
5 topped out.

6 **Q. I want to take a step back, and I'm going to get
7 more into this transfer, but I don't want to get too far
8 off on a different area, so I'm going to get back to
9 that. Okay? But I just want to ask you some
10 background. Is that fair enough?**

11 **What is your current address?**

12 A. 1571 N.E. 11th Street, Benton City, Washington.

13 **Q. Where is Benton City, Washington?**

14 A. Well, there's the Tri-Cities, Richland, Pasco,
15 Kennewick. It's ten miles from there, towards the DC.

16 **Q. And "the DC," you're meaning the --**

17 A. The distribution center.

18 **Q. How long have you lived at that address?**

19 A. Seven years, almost.

20 **Q. Prior to living in Benton city, Washington,
21 where did you live?**

22 A. Walla Walla, Washington.

23 **Q. How long did you live in Walla Walla,
24 Washington?**

25 A. Oh, like 35 years.

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1 **Q. When you were living in Walla Walla, Washington,
2 you were based out of the Oregon terminal. Correct?**

3 A. They sent me a Lewiston, that's where I got my
4 truck, in Lewiston, Idaho.

5 **Q. So were you based out of Lewiston? I'm just
6 trying to understand. Because earlier you said you were
7 based out of the Oregon.**

8 A. Well, no. I think the whole time I was based
9 out of Idaho.

10 **Q. Okay. So what did you mean -- then explain to
11 me, you said earlier that in 2006 you decided you wanted
12 to move from being based in Oregon to being based in
13 Washington. So I'm just trying to understand why did
14 you say those words originally? What did you mean by
15 that?**

16 A. Well, I just meant that I was working out of the
17 distribution center in Oregon, and I wasn't based there
18 because there was no Swift shop or facilities or
19 anything. They -- we did it all over the phone to
20 California. So I don't know, was I based out of
21 California, was I based out of Lewiston where I got my
22 truck, I don't know.

23 **Q. Okay. So now, or when you transferred in 2006,
24 it's your understanding that because you pick up your
25 truck in Grandview, you're based in Grandview,**

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1 **Washington?**

2 A. Yeah.

3 **Q. What is the highest level of education you
4 completed?**

5 A. GED.

6 **Q. When did you receive that degree?**

7 A. Before all my other classmates got graduated, I
8 just -- 1977, '78.

9 **Q. Did you finish high school?**

10 A. No.

11 **Q. When did you start working at Swift?**

12 A. Ten -- well, it will be ten years ago in April.

13 **Q. Where did you work prior to when you began
14 working at Swift?**

15 A. I worked at Pacific Packers of Walla Walla.

16 **Q. How long did you work at Pacific Packers?**

17 A. Eighteen years.

18 **Q. What did you do at Pacific Packers?**

19 A. Warehouse foreman.

20 **Q. Tell me about that. What does that job entail?**

21 A. Loading -- loading the trucks with floor jack,
22 and maintaining equipment.

23 **Q. And that was in Walla Walla?**

24 A. Yeah.

25 **Q. Why did you decide to stop working at Pacific**

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1 **Packers after 18 years?**

2 A. Twenty-five cents a year raise was inadequate,
3 and the business was growing, my responsibilities were
4 growing, and I didn't feel compensated for what I did,
5 and I didn't feel respected by the bosses, so --

6 **Q. Did you quit or were you terminated?**

7 A. I did.

8 **Q. When you quit your job, had you already had a
9 job offer from Swift, or did you quit and then figure
10 out what was next?**

11 A. I figured it out later.

12 **Q. So you quit at Pacific Packers, then eventually
13 you went to apply at Swift. How long between the time
14 you quit at Pacific Packers to the time you inquired
15 about working with Swift?**

16 A. Probably four to five months, four to six
17 months, somewhere in there.

18 **Q. What prompted you to apply for a job at Swift?**

19 A. Barry Kieffer, I think -- somebody came to
20 our -- I went to the community college, and somebody
21 from Swift came and talked and said that they had lots
22 of jobs, so --

23 **Q. Where was this meeting?**

24 A. At the community college.

25 **Q. In?**

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1 A. Walla Walla.
 2 **Q. It was someone from Swift said we have jobs?**
 3 A. Yeah.
 4 **Q. Prior to that, I guess meeting, had you ever**
5 considered becoming a commercial driver?
 6 A. Yeah, I was in school for it.
 7 **Q. At the time you went to this meeting with Swift?**
 8 A. They came to us -- they came to our school, so
 9 yeah, I was already considering being a truck driver,
 10 yeah.
 11 **Q. When did you obtain a commercial driver's**
12 license?
 13 A. Let's see. I believe in March of 2003.
 14 **Q. Was that before or after you started working at**
15 Swift?
 16 A. Before.
 17 **Q. Why did you choose to work at Swift over other**
18 trucking companies?
 19 A. I looked at Werner -- I just choosed it because
 20 it was closer to Lewiston, Idaho, to go for the --
 21 **Q. So after you were present at this meeting at**
22 your college where Swift presented, did you -- what was
23 your next communication with them regarding possible
24 employment?
 25 A. Online application.

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1 **Q. When you filled out the online application, did**
 2 **you believe that you were hired?**
 3 A. Well, no.
 4 **Q. After you filled out the application, what was**
 5 **the next communication that you had with someone from**
 6 **Swift regarding prospective employment?**
 7 A. I think they gave me a date to come on up, and
 8 they wanted to hire me.
 9 **Q. When you say "they gave you a date," who are you**
 10 **referring to when you say "they"?**
 11 A. I don't know. I can't remember how they
 12 communicated back. I just don't know.
 13 **Q. Was it a recruiter, was it a manager, was it a**
 14 **driver? Do you have any idea who you were talking to?**
 15 A. It wasn't a driver. Some kind of management.
 16 **Q. So they called you and said come on up. Where**
 17 **were they saying to tell you to come on up? To**
 18 **Lewiston?**
 19 A. Yeah. I don't know if they called me or
 20 e-mailed me or sent me a letter.
 21 **Q. Hey, it was ten years ago. I wouldn't have**
 22 **remembered either.**
 23 **So you got this call. At that point, did you**
 24 **say I'm employed at Swift?**
 25 A. I got the job, yeah. I got a job.

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1 **Q. So you believed, based on your job application**
 2 **alone, you had gotten a job at Swift?**
 3 MR. CAMP: Objection. Mischaracterizes his
 4 testimony.
 5 BY MS. BRONCHETTI:
 6 **Q. You can answer if you understand.**
 7 A. Well, I believe when they said I had the job
 8 that I was hired, yes.
 9 **Q. Did they -- did you understand -- I'm sorry.**
 10 **Prior to that discussion where you believed that**
 11 **they told you you had a job, did you take a DOT medical**
 12 **test?**
 13 A. No.
 14 **Q. Did you take a drug and alcohol test that's**
 15 **required by DOT?**
 16 A. I did, up there at Lewiston.
 17 **Q. But my question is a little different. I'm**
 18 **asking you before you got this phone call --**
 19 A. Oh, no, none of that.
 20 **Q. So you didn't take the --**
 21 A. I -- gosh, I can't remember. I don't know if
 22 they told us at school we had to have that doctor -- I
 23 know I took the drug test up there in Lewiston. I can't
 24 remember if they said you need your medical card with
 25 your CDL before I got hired. I can't remember or not.

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1 **Q. As a commercial driver, you're familiar with the**
 2 **rules and the requirements that you have to pass in**
 3 **order to drive a truck. Correct?**
 4 A. Uh-uh.
 5 **Q. Or a commercial carrier? Yes?**
 6 A. Yes.
 7 **Q. Is it your understanding that in order to drive**
 8 **a truck for a commercial carrier, you have to pass the**
 9 **DOT medical test?**
 10 A. Yes.
 11 **Q. Is it your understanding that you have to pass**
 12 **the drug and alcohol test?**
 13 A. Yes.
 14 **Q. And you also have to prove -- you have to pass a**
 15 **driving test. Correct?**
 16 A. Correct.
 17 **Q. Without passing those three requirements, you**
 18 **can't technically be employed by a trucking operation?**
 19 MR. CAMP: Objection. Legal conclusion.
 20 BY MS. BRONCHETTI:
 21 **Q. Right?**
 22 A. Could you rephrase -- ask the question again?
 23 **Q. Yeah, of course.**
 24 **Without you passing those three requirements,**
 25 **you can't be employed to haul freight for a trucking**

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1 company. Is that your understanding?

2 MR. CAMP: Objection. Calls for a legal
3 conclusion, and it's a mischaracterization of the law.

4 THE WITNESS: I don't know the specific
5 requirements -- I don't know if you have to pass a
6 driving test. I know you have to pass the medical and
7 drug. I don't know all the requirements other than
8 those two.

9 BY MS. BRONCHETTI:

10 Q. When you got the call from someone in Lewiston,
11 Idaho, from Swift, was it your understanding if you
12 failed those tests that you'd still be employed as
13 something else for Swift, a nondriving position?

14 A. Yeah, well -- rephrase it again.

15 Q. So you get this call, and it's your testimony
16 that you say I was employed, I have a job at Swift.

17 A. (Witness nods head.)

18 Q. And then we just talked about how it's your
19 understanding that to be a driver for any commercial
20 carrier such as Swift, you have to pass, at least to
21 your knowledge, the medical test and the DOT alcohol
22 test.

23 So my question is you get this call, you haven't
24 taken any of these tests yet, but you say you had a job
25 at Swift. Is it your understanding that if you failed

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1 those tests you'd still be employed at Swift, but just
2 not as a driver? As a dispatcher? As, I don't know,
3 something else?

4 A. If you fail a drug test or the medical test, you
5 are not going to be employed. The driving part, you
6 know, they might work with you and let you do that
7 again, but the other two, they're not going to give you
8 a second chance.

9 Q. Okay. So when you got the call, you still
10 needed to submit -- you still needed to pass, at least
11 the two tests, the medical card test and the alcohol
12 test. Correct?

13 A. I believe so. Like I said, that's what I think
14 is correct. I don't think I had the medical. I know
15 the drug -- I remember the drug test, but can't remember
16 where my first medical thing was, so --

17 Q. So you get this call from someone in Lewiston,
18 and then you go to the terminal. How much time passed
19 between the phone call and the time you buzzed over to
20 Lewiston?

21 A. I can't tell you. I'd say several days.

22 Q. So you show up at the terminal. Tell me what
23 happened. Did you go through any type of orientation?

24 A. I just remember going through class, classes,
25 sitting in the classes. And all that was first. Then

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1 the drug test, and then the driving test.

2 Q. Who taught these classes?

3 A. An older gentleman. I don't know who.
4 Experienced driver.

5 Q. How long were the classes?

6 A. Several hours a day. I don't recall.

7 Q. Do you have any idea? Was it ten hours, five
8 hours?

9 A. Maybe six or seven. I can't give you --

10 Q. Did you keep any records of how long you spent
11 in these classes?

12 A. No.

13 Q. How many other drivers were present when you
14 attended the prehire orientation?

15 A. I'd guess probably 15 maybe.

16 Q. Did anyone, prior to you being at the
17 orientation, tell you that you were not employed until
18 you've completed orientation and Swift made a decision
19 whether to hire you or not?

20 A. No.

21 Q. Was it your understanding until you completed
22 prehire orientation, your offer of employment was not
23 finalized?

24 A. No. Like -- no.

25 Q. You can go ahead.

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1 A. Well, I knew I had to pass a driving test. The
2 other two wasn't a question. I was healthy, and I don't
3 do drugs. So I thought, well, maybe they're going to
4 have to send me to some more schooling if I don't pass
5 the driving test.

6 Q. So at what point do you believe that you were
7 officially employed by Swift?

8 A. When they said to come on up, bring your gear.

9 Q. Did you expect to be paid for the time you spent
10 in these classes?

11 A. I didn't know what would -- I just didn't know.

12 Q. When you work for an employer, do you generally
13 expect to be paid for the work you're doing?

14 A. Yeah.

15 Q. Did you ever ask anybody, either before you went
16 up to Lewiston or once you got there, did you ever ask
17 anybody, am I getting paid for that time?

18 A. Not that I remember.

19 Q. Of the other 15 drivers in the class that you
20 were -- the classes that you attended, do you know if
21 any of them were not ultimately employed by Swift?

22 A. Well, we were all -- I don't know if -- alls I
23 know is we were just all there to become truck drivers,
24 I mean --

25 Q. My question is a little bit different. And you

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1 might not remember, which is fair. But think about your
 2 class that you -- the group of people you went through
 3 this -- these meetings with. Do you know if any of them
 4 were not extended an offer of employment with Swift?

5 A. I don't know.

6 Q. You never attended orientation in the state of
 7 Washington, did you?

8 A. No.

9 Q. And the only orientation you ever attended was
 10 back in 2003, in April 2003, in Lewiston, Idaho.

11 Correct?

12 A. Correct.

13 Q. You haven't been kind of in other orientation
 14 classes watching, observing, since that time. Correct?

15 A. No.

16 Q. No, you have not?

17 A. No, I haven't.

18 Q. How many days did the meetings that you
 19 attended --

20 A. I can't remember.

21 Q. Did you ever receive any documents before the
 22 prehire orientation telling you that you were offered a
 23 job?

24 A. I don't know if I got a phone call or a letter.

25 I don't know.

1 was before that, since they wanted to get our names and
 2 all that, they probably gave me one at the orientation.

3 Q. Was it -- do you know if it was before or after
 4 you had passed the driving test, medical test, drug and
 5 alcohol test?

6 A. I think probably -- I can't tell you.

7 Q. Did you ever drive a Swift vehicle, other than
 8 for your driver test, did you ever drive a Swift vehicle
 9 before you passed the drug and alcohol test, the medical
 10 card test, and the driving test?

11 A. I don't think so. I think the driving test was
 12 last.

13 Q. Did you ever make any deliveries for Swift
 14 before you had passed the drug and alcohol test, the
 15 medical card test and the driving test?

16 A. No.

17 Q. Has your commercial driver's license ever been
 18 revoked or suspended?

19 A. No.

20 Q. Are you married?

21 A. Yes.

22 Q. Do you have kids?

23 A. Yeah.

24 Q. Do they live with you?

25 A. One does.

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1 Q. Did you ever look to see if you had any
 2 documents from Swift?

3 A. Yeah.

4 Q. Did you find any?

5 A. No.

6 Q. During the, I would say the orientation that you
 7 attended, do you recall being handed out any documents?

8 A. Well, "documents." What do you mean by --

9 Q. Any pieces of paper?

10 A. I can't remember.

11 Q. Did you attend the Smith system training as part
 12 of your orientation?

13 A. I believe I did that at one point, when I might
 14 have had a -- I can't recall. I probably did. It
 15 sounds familiar to me.

16 Q. Do you recall it being covered at this
 17 orientation time, or do you think it was after you
 18 already had a job?

19 A. I don't know which one. One of them, probably.

20 Q. You don't remember?

21 A. No.

22 Q. At what point, if you know, did you receive an
 23 actual employee number or driver number?

24 A. That would be a -- when I got assigned a truck,
 25 probably, but I -- I can't remember. I think maybe it

1 Q. How old are your children?

2 A. Twenty-nine and thirty-one.

3 Q. How long have you been married?

4 A. Thirty years.

5 Q. Wow. I hope she's not upset that I dragged you
 6 here on Valentine's Day.

7 Have you ever sued an employer before?

8 A. No.

9 Q. Have you ever sued anyone before?

10 A. No.

11 Q. Have you ever been sued?

12 A. No.

13 Q. Have you testified in any court proceeding
 14 before?

15 A. No. Is Unemployment Compensation considered
 16 suing?

17 Q. No, I leave that one out.

18 A. Because, well -- it did go to a hearing, and
 19 they thought --

20 Q. That was back with Pacific?

21 A. Yeah. I got awarded my Unemployment, so --

22 Q. Do you have an e-mail address?

23 A. Eric underscore -- yeah, I do.

24 Q. What is it?

25 A. Eric underscore Dublinski at Yahoo.com.

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1 **Q. Have you ever e-mailed anybody from that e-mail**
 2 **address about this case?**
 3 MR. CAMP: Other than your lawyers.
 4 BY MS. BRONCHETTI:
 5 **Q. Other than your lawyers?**
 6 A. No.
 7 **Q. Have you ever filed for bankruptcy?**
 8 A. Yes.
 9 **Q. When?**
 10 A. I think it was 2000.
 11 **Q. What's the status of that?**
 12 A. It's all zipped up.
 13 **Q. What do you mean, "It's all zipped up"?**
 14 A. I don't understand it. It's all long gone.
 15 I've got good credit.
 16 **Q. Do you know when it got zipped up? Long time**
 17 **ago?**
 18 A. Very soon after.
 19 **Q. You've worked for Swift for a long time. Since**
 20 **2008 until the present date, have you ever gone on a**
 21 **leave of absence longer than normal vacation?**
 22 A. No.
 23 **Q. So you've worked continuously, no breaks in**
 24 **service?**
 25 A. Yep, continuously.

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1 **Has that always been the case? Or since 2008 until**
 2 **today has there been a significant increase or decrease**
 3 **in the number of hours that you work each week?**
 4 A. No.
 5 **Q. And you're currently paid a mileage-based rate.**
 6 A. Correct.
 7 **Q. Do you receive any other compensation other than**
 8 **mileage, such as stop pay, extra -- do you know what I**
 9 **mean by my question?**
 10 A. Yeah.
 11 **Q. Other than your mileage, do you receive any**
 12 **compensation on top of your mileage-based rate?**
 13 A. Yes.
 14 **Q. Tell me everything that you receive.**
 15 A. First stop we don't receive anything, but every
 16 stop after the first stop we get \$10.
 17 **Q. Okay. And that's --**
 18 A. Other than vacation pay, that's the extent of
 19 it.
 20 **Q. Now, what does the \$10 compensate you for? When**
 21 **you say stop pay, what do you mean by that?**
 22 A. The time it takes to unload the product.
 23 **Q. How long generally does it take you when you're**
 24 **making a stop, how long does it take you to make the**
 25 **stop?**

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1 **Q. Have you ever considered becoming an**
 2 **owner/operator for Swift?**
 3 A. No.
 4 **Q. Is there any reason why?**
 5 A. I don't want the headache of my truck breaking
 6 down, and then I got to pay for it, and everything that
 7 goes with being an owner/operator. It's just not
 8 appealing to me.
 9 MR. CAMP: Can we take a break when we get to a
 10 place?
 11 MS. BRONCHETTI: Yeah. We can take one now.
 12 THE VIDEOGRAPHER: Going off the record. The
 13 time now is approximately 10:29 a.m.
 14 (A break was taken from 10:29 a.m. to 10:48 a.m.)
 15 THE VIDEOGRAPHER: Going back on the record.
 16 The time now is approximately 10:48 a.m.
 17 BY MS. BRONCHETTI:
 18 **Q. I want to go back to your actual driving duties.**
 19 **Okay? So bear with me on this one. Right now you are**
 20 **based in Grandview. Right?**
 21 A. Right.
 22 **Q. Okay. How many hours do you work a week,**
 23 **currently?**
 24 A. Anywhere from 63 to 69.
 25 **Q. Now, you say between 63 and 69 hours a week.**

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1 A. Anywhere from ten minutes to two hours. It's
 2 usually about 30 to 45 minutes is probably about normal.
 3 **Q. Now, are you on a specific set route, meaning on**
 4 **Mondays you do certain things, Tuesdays, Wednesdays,**
 5 **Thursday, Friday, Saturday, or tell me about your --**
 6 A. No, every day is not the same. I do go into the
 7 same areas with slightly variated routes, but it's
 8 always in the same direction pretty much.
 9 **Q. If you can tell me, if you were describing to**
 10 **someone your routes on a weekly basis, can you just go**
 11 **over what the usual sequence of that is?**
 12 A. Yeah, sure. I'm usually, I'm either going --
 13 the Spokane direction, I can either go up into Idaho,
 14 and then back up through Washington, or just go all the
 15 way up through Washington, but it's always in the
 16 Spokane area, with surrounding towns, which will vary
 17 where I go every day. I don't know exactly what towns
 18 we're going to go to until the morning of the trip.
 19 **Q. Has that, since you -- and I want to focus on**
 20 **the time period from 2008, beginning of 2008, to the**
 21 **current date. Has that been the same?**
 22 A. No.
 23 **Q. Okay. How long has this Spokane direction,**
 24 **we'll call it the Spokane direction --**
 25 A. The last couple years, basically, even more so

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1 this last year.

2 **Q. Tell me before you did the Spokane, Idaho --**

3 A. Before I could go anywhere. Seattle, Oregon,
4 Montana, just -- I didn't know. But as I, you know, I
5 got more seniority, I'm like I want to go this way,
6 please, so they accommodated that for me.

7 **Q. So when you moved over to be working out of the**
8 **Grandview terminal in 2006, okay, what were your general**
9 **delivery hauling locations?**

10 A. Oregon, Idaho, Montana.

11 **Q. And did that stay consistent until about two**
12 **years ago when you started being more --**

13 A. Yeah.

14 **Q. We'll say about two years?**

15 A. Yeah.

16 **Q. You started hauling just based out of -- more**
17 **Spokane-based hauls?**

18 A. Yeah.

19 **Q. So let me just -- correct me if I'm wrong,**
20 **because --**

21 A. Okay.

22 **Q. -- you know what you do better than anybody.**

23 **But you start at the Grandview terminal.**

24 A. Correct.

25 **Q. And that's a Wal-Mart account?**

1 A. Yeah.

2 **Q. Two years ago?**

3 A. Yeah.

4 **Q. And so when you're doing the Grandview-Colville**
5 **route, you don't leave the state of Washington on those**
6 **days?**

7 A. No. Well, sometimes they give me a stop, just
8 across the border into Idaho, which is kind of my
9 favorite stop, it gives me more miles. And then I'll
10 just come right back into Washington, just go -- let's
11 see. One of them is only one mile in there, some of
12 them are a little farther in.

13 **Q. On a weekly basis, how often do you, when you're**
14 **doing this Grandview-Colville, Washington route, how**
15 **often do you actually leave the state of Washington to**
16 **go into Idaho?**

17 A. It just varies. I could go just to Colville all
18 week, or I could -- sometimes they send me to Sandpoint,
19 Idaho. That's another one they like to send me to. But
20 most of the time I'm going to Colville, and most of the
21 time I'm just staying in Washington, going to Colville,
22 probably a little over 50 percent of the time.

23 **Q. So if we took your month, and I know this is a**
24 **hard question, because I know things change, and every**
25 **day is an adventure when you're a driver. Can you -- is**

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1 A. Yes.

2 **Q. You pick up a loaded container?**

3 A. Yeah.

4 **Q. And then you drive usually to where?**

5 A. Colville, Washington.

6 **Q. Okay. And then you'll stop?**

7 A. Yeah.

8 **Q. And then what do you do?**

9 A. I usually have stops along the way also.

10 **Q. To pick up more?**

11 A. To drop off.

12 **Q. To drop off.**

13 **And so Grandview, Colville, and then do you turn**
14 **around and come home in the same day?**

15 A. Yes.

16 **Q. And round trip, that route takes you about how**
17 **long?**

18 A. About how long?

19 **Q. Uh-huh.**

20 A. A lot of my days are 11 and a half hours.

21 **Q. Okay. So how often do you do this**
22 **Grandview-Colville circle?**

23 A. That one I probably do four out of six days,
24 maybe.

25 **Q. And that's been consistent since about 2011?**

1 **it fair to say that on a given month 50 percent of the**
2 **time you leave the state to deliver in another state,**
3 **and 50 percent you stay in Washington, and that's been**
4 **the case since 2011?**

5 A. It's going to be close. I can't tell you -- I'd
6 lean towards more staying inside of Washington,
7 probably.

8 **Q. Okay. So if you can, and I know this is a hard**
9 **question, but if you can, tell me to your best --**
10 **thinking about your routes from 2011 until today, think**
11 **about percentage-wise how many -- how much time -- how**
12 **many days you leave Washington, if you're looking at a**
13 **30-day calendar.**

14 A. Okay. Thirty. So I'd say probably 12 days I'd
15 leave.

16 **Q. Okay. So a little less than 50 percent?**

17 A. Yeah.

18 **Q. That's fair.**

19 **Now, when you leave the state of Washington --**
20 **let me back up. And that's been the case, roughly 12**
21 **days you leave the state, 12 out of 30 work days.**
22 **That's been true since 2011?**

23 A. Yeah. Around there, yeah.

24 **Q. We're going to go back to what happened with**
25 **Oregon, Idaho and Montana. But that's about your best**

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1 estimate?

2 A. Yeah, that's my best estimate.

3 **Q. And the days that you leave the state, you**

4 **mentioned you go to Sandpoint, Idaho?**

5 A. Yes.

6 **Q. Where is that?**

7 A. Well, Pend Oreille, actually it's a little tiny

8 town right next to Sandpoint. It is 45 miles north of

9 Coeur d'Alene, approximately, up on Highway 95.

10 **Q. What do you deliver to in this tiny, tiny town?**

11 A. Wal-Mart food product.

12 **Q. Other than that town, when you leave the state**

13 **of Idaho, since 2011, what are the other locations that**

14 **you're going to?**

15 A. When I leave the state of Idaho?

16 **Q. Uh-huh. Or, no, leave the state of Washington.**

17 A. The other locations, like Post Falls, Hayden,

18 Idaho, Smelerville, Idaho, not too often there, but --

19 that, yeah, that's the three, four that I go to.

20 **Q. How far is Post Falls from the Washington**

21 **border?**

22 A. They have one store at the very first exit, they

23 have another store at Exit No. 7. So that's one and

24 seven miles.

25 **Q. And what about Hayden, Idaho?**

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1 A. That one is you take Exit 11, and then you drive

2 another couple, three more miles, probably.

3 **Q. So about ten miles-ish?**

4 A. About 14-ish.

5 **Q. What about Smelerville?**

6 A. Smelerville is Exit 38, so that would be

7 38 miles up to that one.

8 **Q. On the days when you go these extra miles to go**

9 **to Idaho, do you stay over in Idaho, or --**

10 A. No.

11 **Q. Do you regularly stay overnight in locations, or**

12 **is your route that you have now --**

13 A. I don't regularly spend the night. I spend the

14 night at my house.

15 **Q. On the days when you deliver to Sandpoint,**

16 **Idaho --**

17 A. Uh-huh.

18 **Q. -- can you give me an estimate of how much time**

19 **you actually spend in Idaho from the time you cross over**

20 **the border, drop off freight, and return? Can you give**

21 **me an estimate of generally --**

22 A. Sure.

23 **Q. -- how much time out of your day is spent in**

24 **Idaho?**

25 A. Let's see. Three and a half -- three and a half

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1 hours.

2 **Q. Three and a half hours out of a --**

3 A. From the time I go in and drop and come back

4 out.

5 **Q. And out of a day consisting of how many hours?**

6 A. Rephrase? What?

7 **Q. So if you work -- if you're three and a half**

8 **hours in Idaho --**

9 A. Yeah.

10 **Q. -- I'm asking three and a half hours out of how**

11 **many hours of total work time for the day.**

12 A. Oh, you could probably up that to four, thinking

13 about it, and then out of -- up there, it's a 12-hour

14 day.

15 **Q. Do you have any records that show you the exact**

16 **amount of time that you spend on a day that you go to**

17 **Sandpoint, working in the state of Idaho? Do you have**

18 **any records that would show that?**

19 A. On my -- we went from -- to paperless logs, and

20 I don't record that stuff. It's in my electronic log,

21 that would show you, but I don't have any records.

22 **Q. What exactly would be in the electronic log?**

23 A. Tells where you were at what time and how long,

24 I believe. It's got every piece of information you'd

25 ever want, I believe, in there.

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1 **Q. So is it your understanding that as soon as**

2 **you -- when you cross the border, do you do anything to**

3 **tell Swift, hey, I'm in Idaho?**

4 A. No, I don't.

5 **Q. So is it your understanding that they could**

6 **figure that out from these electronic logs?**

7 A. Yes.

8 **Q. How long have the electronic logs been in place?**

9 A. I think a little over a year.

10 **Q. Prior to those electronic logs, to your**

11 **knowledge, are there any records that show how much time**

12 **you're working out of the state of Washington on a given**

13 **workday?**

14 A. Well, not exactly. I mean, I've got last year's

15 logbooks. Let me think. Last year -- yeah, I do. But

16 it does not show when I cross borders, it just says

17 where I went, so I guess I do have some documents from

18 last year, I save those ones.

19 **Q. But the documents don't show the amount of time**

20 **you were working in the state of Idaho, they show that**

21 **you went there?**

22 A. I could figure it. They don't show it, but I

23 could figure it, because I know what I do.

24 **Q. But you wouldn't be able to figure exactly?**

25 A. Well, I know how -- it shows where I went, and

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1 if I did nonstop driving or not, that will show. So I
 2 could figure it.

3 **Q. But your logs wouldn't show that there was a**
 4 **traffic jam --**

5 A. Oh, no.

6 **Q. -- that there was a holdup at Wal-Mart --**

7 A. No.

8 **Q. -- that there was some other complication that**
 9 **resulted you working in Idaho longer in a given day.**
 10 **They wouldn't show that. Right?**

11 A. No.

12 **Q. When you're in -- when you make a delivery, the**
 13 **trip to Post Falls, how much time do you spend working**
 14 **on those days in the state of Idaho?**

15 A. I'm thinking back to the last question. I'm
 16 sorry.

17 **Q. That's okay. Do you want to change your answer?**

18 A. Yeah. I don't have last year's logs. I kept --
 19 I just said when I started my day, when I finished my
 20 day, where I went. That's all I've got. The logs I
 21 was -- that's all the logs I've got, yeah, because --

22 **Q. Okay.**

23 A. I was thinking of before the electronic. But I
 24 don't have any now, so -- okay. What was your next
 25 question?

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1 **Q. That's okay. So I just want to know that -- and**
 2 **thank you for clarifying your answer, because that's**
 3 **important. That's what I want you to do.**

4 **So your logs show where you went on a given day,**
 5 **but they don't show how long you were in a specific**
 6 **spot?**

7 A. They will show how long I stopped my truck.

8 **Q. But they won't show how long -- they won't say,**
 9 **cross the state of, state border, worked 4.65 hours,**
 10 **returned to the state border. They would show pick up**
 11 **at, you know, plant, or facility, drove, drove, drove,**
 12 **drop off in Sandpoint, drove. That's how they would be**
 13 **recorded? Is that correct?**

14 A. I don't know. I don't know. I know if I stop
 15 my truck it will say where you were at, but I don't know
 16 if it keeps track of while you're moving or not, I don't
 17 know.

18 **Q. When you were doing the, your own records,**
 19 **before the electronic logs came out, you didn't record**
 20 **the amount of time that you spent in the state, in**
 21 **another state, other than Washington, actually working.**
 22 **Correct?**

23 A. No.

24 **Q. So now going to the Post Falls question. When**
 25 **you deliver to the Post Falls location, how often -- how**

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1 **long do you spend actually working in the state of Idaho**
 2 **on those days?**

3 A. Well, it depends on whether I'm just going
 4 shortly across the border or all the way up farther.

5 **Q. Okay.**

6 A. And if I'm just going across to the border, it
 7 would be maybe two stores over there, could spend a
 8 couple hours, or could be an hour, or it could be three
 9 hours. It just depends on how fast they get you
 10 unloaded, which can vary widely.

11 **Q. So when you're going over the border to Exit 1,**
 12 **it could be as little as one hour, as far as time spent**
 13 **working in Idaho, before you drop off, get unloaded, get**
 14 **back to Washington?**

15 A. Yes.

16 **Q. Or it could be as much as how many?**

17 A. It could be as much as three, depending how far
 18 up I'm going, or even four, because they have multiple
 19 stores in that Idaho area, so if I had to go to two Post
 20 Falls stores, the Hayden one and also Pend Oreille, I'm
 21 going to be there for a long time, so --

22 **Q. And then Smelterville. When you go to**
 23 **Smelterville, how much time -- a range is fine -- do you**
 24 **spend actually working in the state of Idaho?**

25 A. Well, that one I would be driving two, two and a

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1 half hours, unloading and driving.

2 **Q. And so from the time you enter the state, drop**
 3 **off in Smelterville, and return, it's about two, two and**
 4 **a half hours?**

5 A. (Witness nods head.)

6 **Q. But it could be more, it could be -- yes?**

7 A. Yes.

8 **Q. It could be more or less depending on --**

9 A. Correct, correct, yes.

10 **Q. -- a variety of factors?**

11 Now I want to talk about the time period before
 12 you had this Spokane-centered route, what we just kind
 13 of covered. Okay?

14 A. Yeah.

15 **Q. When you drove the, I'm going to call it the**
 16 **Oregon-Idaho-Montana route, can you describe for me an**
 17 **average week where you'd pick up, where you'd drop off,**
 18 **et cetera?**

19 A. Well, you got to include Washington in there,
 20 because --

21 **Q. Of course.**

22 A. -- because I was going to stores up in Seattle,
 23 or I could go to Oregon stores, and that involves --
 24 well, I drove nights, so I didn't -- didn't get the
 25 traffic as much. But I notoriously try to finish the

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1 load I start, so I can, you know, have a good, long day
 2 the next day again. So I just go where they tell me and
 3 try to complete it, and I did everything I could to get
 4 the mission completed so I could have another long day
 5 the next day and make some money.

6 **Q. This is -- I'm trying to make it easy. It's
 7 just that it's hard -- I know it's hard to break down a
 8 five-year period of your life, generalize.**

9 **Let's try it this way. On a given week, between
 10 2006 and 2011, how often would you haul to Montana?**

11 A. Once or -- once or twice a month. Not very
 12 often.

13 **Q. During the same time period, how often would you
 14 haul freight to Oregon?**

15 A. During a month?

16 **Q. I'd prefer if you can answer based on a week. I
 17 know that for Montana, because it was so --**

18 A. I'd say about half the time, about half the time
 19 to Oregon.

20 **Q. So Oregon. So anywhere between two to four
 21 days -- two to three days a week?**

22 A. Yeah. Say three days, three days a week.

23 **Q. And then how about Idaho, during that period,
 24 how often would you be going to Idaho?**

25 A. During that period I mainly went to Seattle and

1 that one. Got 14 hours to work, and I usually do what I
 2 can, so --

3 **Q. Okay. And then on the days when you would be
 4 hauling to Oregon, how many hours would you spend
 5 hauling freight in the state of Oregon?**

6 A. Okay. That would be, see, it takes -- let me
 7 see where we cross over there. That would be about
 8 eleven hours, ten hours, on a long, if that's -- if it's
 9 a long drive, if it's a long, big mile trip, it would be
 10 that many hours.

11 **Q. Eleven out of the fourteen hours you would be
 12 out of the state of Washington?**

13 A. Yeah.

14 **Q. How much do you currently make a week?**

15 A. Let's see. About 3,000 -- well, say 2900
 16 time .36, plus a little more. About another \$110 added
 17 onto that.

18 **Q. So is it fair to say that you roughly, before
 19 taxes, make about 1200 bucks a week?**

20 A. (Witness nods head.) Yes.

21 **Q. And that's for how many hours of work?**

22 A. Nearly 70.

23 **Q. When you first were hired at Swift, did anyone
 24 explain to you how you would be paid?**

25 A. I think they said you're going to get so much a

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1 Oregon, I think.

2 **Q. So during that time period, once or twice a
 3 month you'd drive to Montana. About half, you know, in
 4 a given work week, three out of the five or six days
 5 you're actually driving, on three of those days you
 6 would haul to Oregon. On the other days, generally, you
 7 would be doing Grandview to Seattle?**

8 A. Yeah.

9 **Q. And that remained consistent for the entire time
 10 period. Is that true?**

11 A. Yeah, you know, it's a vague -- it's a guess,
 12 but that's pretty much the best answer I can give you.

13 **Q. There's nothing that's sticking out in your mind
 14 as far as you had another big period of time that you
 15 went to another state, more than once or twice a month?**

16 A. No.

17 **Q. Where would you haul to in Montana on the
 18 occasions where you went to Montana?**

19 A. Usually Missoula.

20 **Q. On the days when you hauled to Montana, how many
 21 hours did you spend working outside the state of
 22 Washington?**

23 A. About, six -- boy, about seven or eight.

24 **Q. Out of 11 hours?**

25 A. Out of 14, call it. You can work all day on

1 mile.

2 **Q. Did anyone at Swift at any point ever tell you
 3 that you are not being paid overtime?**

4 A. No.

5 **Q. Did anyone at Swift at any point tell you that
 6 overtime is factored into the rate which you're paid?**

7 A. No.

8 **Q. Have you ever sought employment with another
 9 trucking company? Have you ever looked to see what they
 10 were paying?**

11 A. I, at first, I was going to go with Werner, but
 12 I just saw how much closer Swift was, so basically no.

13 **Q. Is it your understanding that other trucking
 14 companies pay their drivers -- do you have any -- let me
 15 ask you a different question. Do you have any
 16 understanding about how other trucking companies
 17 compensate their drivers?**

18 A. Well, the Wal-Mart drivers are reluctant to say
 19 how much they get paid, but I'm kind of friendly with
 20 some of them, and they're like, "Dude, you're going to
 21 make a lot more money, try to get on with us," but they
 22 can't actually say how much or anything.

23 **Q. Are they employees of Wal-Mart?**

24 A. Yeah.

25 **Q. Do you know, other than those drivers, do you**

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1 know how any other drivers are paid for other -- who
 2 work for any other companies?
 3 A. No.
 4 Q. Do you know of any company who pays a
 5 mileage-based rate and then on top of that pays
 6 additional overtime? Do you know of any company who
 7 does that?
 8 A. No.
 9 Q. Have you ever been paid by the hour at any time
 10 since you worked at Swift?
 11 A. Yes.
 12 Q. When were you paid by the hour?
 13 A. I had an injury and they had me working at the
 14 shop down there in Grandview.
 15 Q. When was that?
 16 A. Approximately a couple to three years ago, in
 17 the spring.
 18 Q. How long did you work in the shop at the
 19 Grandview terminal?
 20 A. Maybe month, maybe -- right around that area.
 21 Q. What was your rate of pay?
 22 A. Whatever the prevailing minimum wage was.
 23 Q. You don't remember?
 24 A. No.
 25 Q. Did you receive overtime?

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1 A. No, I worked 40 hours a week.
 2 Q. When was that, when you were working in the
 3 shop?
 4 A. I think it was two years ago, in the spring. It
 5 might have been three years ago.
 6 Q. You said that you received mileage-based pay,
 7 and then stop pay.
 8 A. Correct.
 9 Q. Those are the two types of pay that you've
 10 received over your tenure at Swift. Do you know if
 11 other drivers who work at Swift have different
 12 arrangements with Swift and get paid different, for
 13 different activities that you're not paid for?
 14 A. No.
 15 Q. How often do you get paid?
 16 A. Weekly.
 17 Q. Have you ever looked at your paycheck and had
 18 concerns that you were not paid correctly?
 19 A. Yes.
 20 Q. How many times did that happen?
 21 A. Probably at least 15.
 22 Q. What did you do on these 15 occasions where you
 23 believed you were paid incorrectly?
 24 A. I pointed out the error, and they corrected it.
 25 Q. When you say "they corrected it," who are you

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1 referring to?
 2 A. However was down at the office at the time.
 3 Q. The office in Grandview?
 4 A. Yeah.
 5 Q. Do you remember --
 6 A. Well, let me go back. Maybe double that time,
 7 because I had a -- sometimes they forgot to pay stops,
 8 sometimes they paid way too short of miles, okay, so
 9 sometimes I'd tell them the miles are way bad on this.
 10 I forgot about those.
 11 Q. So about 30 times you looked at your paycheck
 12 and said I haven't been paid right.
 13 A. Right.
 14 Q. And that's from when you started to now, about
 15 30 times?
 16 A. Yes, yes.
 17 Q. So during -- in response to those 30 occasions,
 18 you would speak to someone in Grandview, someone in
 19 payroll?
 20 A. Someone at the desks. They don't really have a
 21 payroll there.
 22 Q. Excuse me. Who? Do you remember any of the
 23 names?
 24 A. Just whoever was at the computer. It didn't
 25 matter who you talked to. They all have access, and

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1 they can fix it.
 2 Q. After you noticed errors in your paycheck, and
 3 brought them to the attention of the Grandview terminal,
 4 were those errors corrected?
 5 A. Eighty percent of the time, yeah.
 6 Q. The 20 percent of the time when they were not
 7 corrected, do you know why they weren't corrected?
 8 A. They just said that's how it is, about the miles
 9 not being long as I thought they should be. But they
 10 adequately, as far as I'm concerned, addressed my
 11 concerns about all that.
 12 Q. Other than on your DOT logs, did you keep any
 13 other personal records that would show the number of
 14 hours you worked?
 15 A. No. As of the electronic log, which is, what, a
 16 little over a year, I mark when I start my day and when
 17 I finish my day. You know, basically I'm working all
 18 day. So before that, I have nothing, but I do have
 19 record of how many hours a day I worked for the last
 20 year or so. But that's going -- that doesn't show any
 21 breaks, just when I started and finished, so not much
 22 there, really.
 23 Q. Your complaint also includes -- strike that.
 24 Have you ever received a bonus from Swift of any
 25 sort?

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1 A. Yes. They, back in the Hermiston, they used to
 2 have a bonus, if you drove over some miles it would give
 3 you a bonus.

Q. Do you know what those miles were?

4 A. Gosh, I don't. I mean, I got it several times,
 5 but it may have been 2500 miles. I don't know.

6 Christmas bonus. We got that in July this year,
 7 I think it was, well past Christmas they decided, oh,
 8 well, we're going to give you your Christmas bonus now.

Q. It's Christmas in July. The half Christmas.

9 A. We used to get a bonus for not having any
 10 crashes, and they'd give you a penny a mile for the
 11 whole year if you were crash-free, but I think I got
 12 that one time, but that's -- that's out of existence
 13 now.

14 **Q. When was this bonus from Swift in place that you**
15 received when you drove over a certain number of miles?

16 **When was that?**

17 A. Way back in 2003, '04, '05.

Q. How much was that bonus?

18 A. 50 bucks, maybe.

Q. Per week?

19 A. Yeah. Wait a minute. I think per month. I'm
 20 not sure.

21 (Mr. Lane left the proceedings.)

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1 BY MS. BRONCHETTI:

2 **Q. And the Christmas bonus, is that an every year**
3 bonus?

4 A. Yeah. I mean, they came in a little late last
 5 year, but \$50, okay.

Q. How much is it?

6 A. 50.

7 **Q. What about the crash-free bonus? When was that**
8 in place?

9 A. I got that I think just one time, and they
 10 discontinued it, so I probably got it in 2007.

11 **Q. I want to talk to you now about the per diem**
 12 **program.**

13 A. Okay.

14 **Q. What is your understanding of the per diem**
 15 **program?**

16 A. Alls I really know, I don't know very much about
 17 it, but that's where they hold out some money that's
 18 supposed to be tax benefit, and it's all automatic, and
 19 it has to do with meals and stuff, and that's about the
 20 extent of what I know about it.

Q. When did you first learn about it?

21 A. When I did my taxes, they were like, you know --
 22 I just -- I just opted out. I don't know. I don't know
 23 very much about it.

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1 **Q. When -- but my question is when did you first**
 2 **hear about it. Do you know what year?**

3 A. No, I -- something that didn't really concern me
 4 much, so I don't know when I learned about it.

5 **Q. Was it five years ago, ten years ago? Can you**
 6 **give me any type of --**

7 (Mr. Lane rejoined the proceedings.)

8 A. I'd say eight years ago, nine years ago.

9 **Q. Is it your understanding that you had the option**
 10 **to opt out?**

11 A. Yes.

12 **Q. Did anyone tell you why you had that option?**

13 A. Nobody told me, no.

14 **Q. What was your understanding of why you chose to**
 15 **opt out?**

16 A. I just didn't -- I just thought they'd be
 17 holding out some of my money when I'd rather have it.

18 **Q. Did you speak to a tax professional about it or**
 19 **did you figure that out on your own?**

20 A. Just on my own.

21 MS. BRONCHETTI: Can we take a break? It's
 22 11:30. We've been going another hour.

23 You want a break?

24 THE WITNESS: Sure.

25 MS. BRONCHETTI: Fifteen minutes?

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1 MR. CAMP: Can you get down and back in 15?

2 MS. BRONCHETTI: We can go off the record.

3 THE VIDEOGRAPHER: Going off the record. The
 4 time now is 11:29 a.m.

5 (A break was taken from 11:29 a.m. to 11:55 a.m.)

6 THE VIDEOGRAPHER: Going back on the record.
 7 The time now is approximately 11:55 a.m.

8 This is the beginning of disk No. 2 in the
 9 deposition of Eric Dublinski.

10 BY MS. BRONCHETTI:

11 **Q. We were talking about the per diem program.**

12 A. Uh-huh.

13 **Q. And how you decided it wasn't for you. Did you**
 14 **have -- did you ever have any conversations with anybody**
 15 **who was on the per diem program, and who thinks it's**
 16 **good for them?**

17 A. No. I think I just briefly asked a random
 18 driver if they were doing it, and they said no, and it
 19 was kind of a waste of time, so I just said, okay, no.

20 **Q. Since you opted out of the per diem program, did**
 21 **you have -- have you ever been offered the opportunity**
 22 **to opt back in?**

23 A. I know that they have certain times of the year
 24 where I think you could do any kind of that stuff, so I
 25 think I -- yeah, I think there was probably an

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1 opportunity where I could have got on.

2 **Q. And you've just continuously said this isn't for**
 3 **me?**

4 A. Correct.

5 **Q. And based on that, it's your understanding it's**
 6 **completely optional?**

7 A. Yes.

8 **Q. Have you spoken to any drivers about the claims**
 9 **that you're making in the lawsuit?**

10 A. I've -- speaking with Jacob Grismer.

11 **Q. How many times have you spoken with Mr. Grismer?**

12 A. Oh, hundreds of times.

13 **Q. How many times have you spoken to him about this**
 14 **lawsuit?**

15 A. Maybe ten.

16 **Q. Can you tell me generally what you've discussed?**

17 A. Well, I found out they discontinued the per diem
 18 program. He told me that. And I remember seeing on the
 19 Qualcomm about that, that they weren't going to do that
 20 anymore. And just kind of how we get shortchanged, just
 21 in general.

22 **Q. Anything else that you recall discussing with**
 23 **Mr. Grismer about this lawsuit?**

24 A. The paper where they gave us in writing about
 25 the Washington-based drivers had built-in overtime. We

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1 discussed that.

2 **Q. Can you describe that piece of paper you're**
 3 **referring to?**

4 A. Yeah. It's -- it's an acknowledgment that --
 5 saying that as Washington-based drivers we're getting
 6 more -- or we have built in overtime.

7 **Q. Did you sign that document?**

8 A. No, I did not.

9 **Q. Did you -- why didn't you sign that?**

10 A. Because I disagreed with it.

11 **Q. Did you tell anybody not to sign the document?**

12 A. Did I tell anybody else not to sign it? No.

13 **Q. Do you know if anyone else told other drivers**
 14 **not to sign the document?**

15 A. No. I -- no.

16 **Q. Have you ever had discussions with other drivers**
 17 **who say they believe that overtime is included in the**
 18 **rate that you're paid?**

19 A. Ask me that one more time, please.

20 **Q. Have you ever had discussions with any other**
 21 **driver who say that they believe that overtime is**
 22 **included in the pay that you receive?**

23 A. No.

24 **Q. Have you told me everything you remember**
 25 **discussing with Mr. Grismer?**

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1 A. No.

2 **Q. Okay. What else did you discuss about the**
 3 **lawsuit?**

4 A. Well, the acknowledgment paper. I have a little
 5 story that I told him about that. It was kind of a --
 6 disappointing to me that -- I asked them for time to
 7 think about it, and review the paper, and they kind of
 8 wanted me to hurry up and just get it turned in, no big
 9 deal, put your name on there -- or put your driver code,
 10 and check a box, you don't have to sign it. So he asked
 11 me like three times. I'm finally like, okay, fine, I'll
 12 just check a box and put a driver code, and gave it to
 13 him.

14 **Q. So you did sign it?**

15 A. No. I didn't check the box that I acknowledge
 16 that it's built in, because that's contrary to my
 17 belief.

18 Anyway, the next day they came up to me, and
 19 said, well, we lost your paper, and so can you please do
 20 it again. So I checked the box saying I refuse to sign,
 21 put my driver code on there again. Turned the paper
 22 back in, got ready to leave for work, and Doug Klein,
 23 Klies, checked the box for me. As I was turning around
 24 leaving, he was, "Oh, I'll just check this box for you."
 25 And I was sort of -- I didn't want to fight. I was just

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1 like, wow, that's not very cool.

2 **Q. And Doug, who is Doug?**

3 A. He's one of -- he was the planner for most -- I
 4 think he's back planning right now, the planner.

5 **Q. Did you ever report that Doug had done that to**
 6 **anybody?**

7 A. I told my lawyer.

8 **Q. Other than your lawyer, did you tell anybody at**
 9 **Swift?**

10 A. I told my friend Jacob.

11 **Q. Did you tell any supervisor?**

12 A. No.

13 **Q. Did you contact HR?**

14 A. No.

15 MR. LANE: I'd like to put on the record that I
 16 did tell Paul Cowie about this in an e-mail.

17 BY MS. BRONCHETTI:

18 **Q. Why didn't you tell a manager that that had**
 19 **happened?**

20 A. He -- the manager was sitting right there.

21 Here's -- his door is open, the desk is like from me to
 22 him (indicating), and I'm pretty sure he saw it happen.

23 **Q. But you didn't tell him?**

24 A. No.

25 **Q. You didn't tell him because you thought he saw**

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1 it?	1 Q. Have you told me everything that's changed since
2 A. I didn't tell him because I didn't want to get	2 you went from reporting in to Lewiston until you said
3 into a fight, because that's pretty unethical, in my	3 you were based in Washington?
4 eyes, and I wanted to get to work, and I just kind of,	4 A. I do believe so. Other than the decrease in
5 wow, what can I do, you're my bosses.	5 pay, I guess that also.
6 Q. Who was your manager at the time this happened?	6 Q. Did your hours change when you transferred from
7 A. My driver/manager?	7 being out of Idaho to being based in Washington?
8 Q. Yes, sir.	8 A. I work more, steadier, out of Grandview.
9 A. Ben Germer.	9 Q. When you say worked more, what do you mean by
10 Q. Is he still your driver manager?	10 that?
11 A. He no longer works there.	11 A. Just more consistent. Getting dispatched
12 Q. Who is your driver/manager currently?	12 faster, getting longer runs.
13 A. Jay Juhl.	13 Q. Did anyone tell you why you were paid less per
14 Q. For how long has Jay been your driver/manager?	14 mile when you transferred from Oregon to Washington?
15 A. Eight months, approximately.	15 A. They didn't tell us why, no.
16 Q. How long was Ben Germer your manager?	16 Q. At the end of the week, you were making more
17 A. I'd say a couple years.	17 money, though, because you had more consistent work, you
18 Q. Who was your manager before Ben?	18 were making more money at the end of the week --
19 A. Reagan Lara.	19 A. Yes.
20 Q. How long was she your manager?	20 Q. -- when you were based out of Washington?
21 A. She was for a couple years as well, I believe,	21 A. Yes.
22 approximately.	22 Q. Have you told me everything you've discussed
23 Q. And before Reagan?	23 about this lawsuit with Mr. Grismer?
24 A. Let's see. Yeah, I can't remember.	24 A. I can't be certain that we discussed maybe some
25 Q. Was Henry Ledesma ever your manager?	25 minor other little things. He's a friend, so I didn't

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1 A. I'm not sure. He was a manager. I do not -- I	1 take notes or anything. We didn't really get very deep
2 don't think he was.	2 into anything, really.
3 Q. Who was your manager when you were based out of	3 Q. Have you ever talked about how much money you
4 Lewiston?	4 want to recover through this lawsuit?
5 A. I remember the guy from California's last name,	5 A. No.
6 Brody Legue, L-E-G-U-E, or something like that. But out	6 Q. You've also discussed this lawsuit with Troy
7 of -- I only did a couple three weeks over the road, so	7 Slack. Is that correct?
8 I don't know who my manager -- it was a lady, I can tell	8 A. Very, very briefly. Just other than getting the
9 you that. I can't remember her name.	9 lawyers' names, that's probably just about the extent of
10 Q. When you say that you transferred to a	10 it.
11 Washington-based terminal, did you receive any type of	11 Q. Getting?
12 paperwork from Swift officially memorializing this	12 A. Contact number for lawyers.
13 transfer?	13 Q. Well, how did it come to be that you were
14 A. No.	14 reaching out to him to get contact information from
15 Q. Did your manager change when you transferred	15 lawyers?
16 over?	16 A. I bumped into him, and maybe I heard his name
17 A. Yes.	17 through Jacob. I can't remember.
18 Q. It did?	18 Q. Okay. So he gave you the contact info. Was
19 A. Yeah.	19 anything else was discussed?
20 Q. What else changed other than where you picked up	20 A. No.
21 your truck when you transferred terminals?	21 Q. When was this?
22 A. Everything. When we -- we used to be over the	22 A. Like a couple years ago.
23 phone to California, then when I transferred over	23 Q. Have you collected statements from any other
24 everything was right there at the office in Grandview	24 driver regarding your claim?
25 there.	25 A. No.

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1 **Q. Have you attended any meetings outside the
2 presence of your counsel with other drivers to discuss
3 the lawsuit?**

4 A. No.

5 **Q. Do you know one way or the other whether other
6 drivers support the lawsuit that you're bringing on
7 their behalf?**

8 A. The drivers involved in this support it. Other
9 than that, I don't know.

10 **Q. So you know the named class representatives --**

11 A. Not all of them.

12 **Q. I'm sorry. Let me make sure I understand your
13 answer. Is it your understanding that the named class
14 representatives that you've mentioned you've spoken to,
15 they support the lawsuit, but outside of those drivers,
16 do you know any other drivers, how they feel about this
17 lawsuit, whether they support it or not?**

18 MR. CAMP: Objection. Calls for speculation.

19 THE WITNESS: No, I don't.

20 BY MS. BRONCHETTI:

21 **Q. Have you ever had -- over the years, have you
22 had good -- how would you describe your relationships
23 with your managers?**

24 A. Very good.

25 **Q. Have you ever had a problem with one of your**

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1 **managers?**

2 A. No.

3 **Q. Have you ever had any altercations with other
4 Swift drivers?**

5 A. No.

6 MS. BRONCHETTI: Can we go off the record?

7 MR. CAMP: Yes.

8 THE VIDEOGRAPHER: Going off the record. The
9 time now is approximately 12:11 p.m.

10 (A luncheon recess was taken from 12:12 p.m. to
11 12:56 p.m.)

12 THE VIDEOGRAPHER: Going back on the record.
13 The time now is approximately 12:56 p.m.

14 BY MS. BRONCHETTI:

15 **Q. Good afternoon. You understand you're still
16 under oath. Correct?**

17 A. Correct.

18 **Q. Okay. Other than Wal-Mart, have you done
19 deliveries for any other customer other than Wal-Mart,
20 from 2006 until the present day.**

21 A. No.

22 **Q. Have you ever worked as an over-the-road driver?**

23 A. Very briefly. I can't remember how long. Maybe
24 a couple, three weeks.

25 **Q. Do you remember when you did that?**

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1 A. When I very first began, ten years -- nine and
2 three-quarters years ago.

3 **Q. To your knowledge, have you ever received
4 detention pay?**

5 A. I think I have, yes.

6 **Q. What is detention pay for?**

7 A. It's when you get stuck at a back haul, that
8 you're supposed to bring back, and they're not ready to
9 load you and you end up sitting and sitting waiting.

10 **Q. Do you know when your -- how often have you been
11 paid detention pay? Is it once a month, once a --**

12 A. I could probably count it all on one hand with
13 this whole time there.

14 **Q. Do you know how much you're paid when you're
15 paid detention pay?**

16 A. I think ten an hour.

17 **Q. Have you ever done local delivery?**

18 A. Well, they call it local, but it's within
19 30 miles, is how they define local. And yes, I have.

20 **Q. How often have you done local delivery?**

21 A. Well, not often at all. Maybe -- there's two or
22 three times where I did just local and come back, two or
23 three, three or four times.

24 **Q. And in your employment with Swift you've done
25 three or four times?**

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1 A. Yeah, four times.

2 **Q. Are you paid hourly when you do local delivery?**

3 A. No.

4 **Q. Still paid mileage?**

5 A. Yeah.

6 **Q. Have you ever been paid any extra for crossing a
7 border?**

8 A. No.

9 **Q. What about breakdown pay? Have you ever been
10 paid breakdown pay?**

11 A. I don't -- no, not to my knowledge. Let me
12 correct. It's 150 -- within 150 miles, round trip, that
13 that's how they define local pay.

14 **Q. Okay. Thank you.**

15 **Going back to breakdown pay. Have you ever been
16 paid breakdown pay?**

17 A. Oh, breakdown pay. I don't think I've ever been
18 paid for breakdown pay. I think maybe once I did, for
19 like one day, or -- because I remember that now.

20 **Q. Do you recall what you were paid?**

21 A. I think 50 a day, or in that area.

22 **Q. Have you ever been paid for a canceled dispatch?**

23 A. No.

24 **Q. Have you ever been paid for a driver assist
25 load?**

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1 A. No. Is that -- is that like when you're helping
 2 unload?

3 **Q. It's a payment for a driver when they're**
 4 **assisting another driver load freight.**

5 A. Oh, no, no.

6 **Q. Have you ever been a flatbed driver?**

7 A. No.

8 **Q. Have you ever been paid an additional amount for**
 9 **using a pallet jack?**

10 A. No.

11 **Q. What about have you been paid extra for shrink**

12 **wrapping?**

13 A. No.

14 **Q. Do you know, are you familiar with the term a**

15 **full hand load?**

16 A. I am not familiar with the term. I'm guessing
 17 it means unloading it yourself.

18 **Q. Have you ever been paid extra?**

19 A. Once.

20 **Q. How much were you paid for that?**

21 A. I have no idea. That was when I very first
 22 started, and I had to unload one truckload, and
 23 that's -- that's the history of that, and I can't
 24 remember how much.

25 **Q. Have you ever had to tarp a load?**

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1 **Q. Are you paid more per mile if you drive less**
 2 **mileage? So, for example, if you're paid -- if you**
 3 **drive 25 to 99 miles, are you paid a different**
mileage-based rate than you are paid if you work --

5 A. They throw \$30 on anything less than a 150-mile
 6 round trip. They will add \$30 to your trip.

7 **Q. But the mileage rate to your understanding stays**
 8 **the same?**

9 A. Yeah.

10 **Q. Do you know why you're paid an additional 30**
 11 **bucks?**

12 A. Just because it's classified as a local run.

13 **Q. So you've never been paid under this pay scale?**

14 A. No, not to my knowledge.

15 MS. BRONCHETTI: Can we mark this as Exhibit 2.
 16 (Exhibit 2 was marked.)

17 BY MS. BRONCHETTI:

18 **Q. The Exhibit 2 is a two-page document that's Bate**

19 stamped DO10225 through DO10226, titled "Swift

20 Transportation Linehaul Driver Pay Plan." Let me know

21 once you've taken a moment to review.

22 A. Okay.

23 **Q. Have you ever seen this document before?**

24 A. No.

25 **Q. When you were working in 2006, what were you**

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1 A. No.

2 **Q. Were you ever -- you were technically classified**

3 as a line haul driver. Correct?

4 A. Over the road is what I've known it as.

5 **Q. Let me show you an exhibit. I'm going to mark**

6 it as Exhibit 1.

7 (Exhibit 1 was marked.)

8 BY MS. BRONCHETTI:

9 **Q. This is a two-page document, "Transportation**

10 Linehaul Driver Pay Plan," with Bate stamp No. DO10223

11 and DO10224. Can you look at this document, read it,

12 and tell me when you've had a chance to review it so I

13 can ask you some questions?

14 MR. LANE: What number did you say this was?

15 MS. BRONCHETTI: One.

16 MR. LANE: One. Okay.

17 BY MS. BRONCHETTI:

18 **Q. Have you had a chance to look it over?**

19 A. (Witness nods head.)

20 **Q. Have you seen this document before?**

21 A. No.

22 **Q. You have over four years of experience. Right?**

23 A. Yes.

24 **Q. And you're paid what amount currently?**

25 A. Thirty-six cents a mile.

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1 **paid per mile?**

2 A. 2006?

3 **Q. Uh-huh.**

4 A. Like 29 cents a mile, maybe.

5 **Q. Do you know how Swift calculates the mileage**

6 rate that it pays its drivers? Not the number of miles,

7 but the rate itself. Do you have any knowledge as to

8 how they make that determination?

9 MR. LANE: How they establish the rate per mile?

10 THE WITNESS: By your driving experience.

11 That's all I know, is they pay you by how much
 12 experience you have. That's what determines how much
 13 per mile you get.

14 MS. BRONCHETTI: Can we go off the record for a
 15 minute.

16 THE VIDEOGRAPHER: Going off the record. The
 17 time now is approximately 1:05 p.m.

18 (Discussion off the record.)

19 THE VIDEOGRAPHER: Going back on the record.
 20 The time now is approximately 1:06 p.m.

21 BY MS. BRONCHETTI:

22 **Q. Have you ever worked as a driver mentor?**

23 A. No.

24 **Q. Can you tell me who you're representing or who**
you're trying to represent in your lawsuit?

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1 A. I'm trying to represent all the drivers that are
2 based in Washington, and all the Swift drivers that get
3 paid by the mile.

4 **Q. And all of them? Or just the ones based out of**
5 **Washington?**

6 A. The ones based in Washington.

7 **Q. Do you know how many drivers that consists of?**

8 A. No, I don't.

9 MS. BRONCHETTI: I have nothing further today.

10 I appreciate your time. Well, for now I have nothing
11 further.

12 THE WITNESS: Okay.

13 MR. CAMP: We have nothing either.

14 THE REPORTER: Reading or waiving?

15 MR. LANE: Read.

16 MR. CAMP: Read.

17 THE VIDEOGRAPHER: There concludes the
18 deposition of Eric Dublinski.

19 The time now is approximately 1:07 p.m. This is
20 the end of disk No. 2. Going off the record.

21 (Deposition concluded at 1:07 p.m.)

22 (By agreement between counsel and the witness,
23 signature was not waived.)

24 -00-

25

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1 C E R T I F I C A T E

2

3

4 I, SHERILYN V. McKAY, a Certified Shorthand
5 Reporter in and for the State of Washington, do hereby
6 certify that the foregoing transcript of the deposition
7 of ERIC DUBLINSKI, having been duly sworn on
8 February 14, 2013, is true and accurate to the best of my
9 knowledge, skill and ability.

10 IN WITNESS WHEREOF, I have hereunto set my hand
11 February 21, 2013.

12

13

14

15 
16 SHERILYN V. MCKAY, RMR, CRR

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